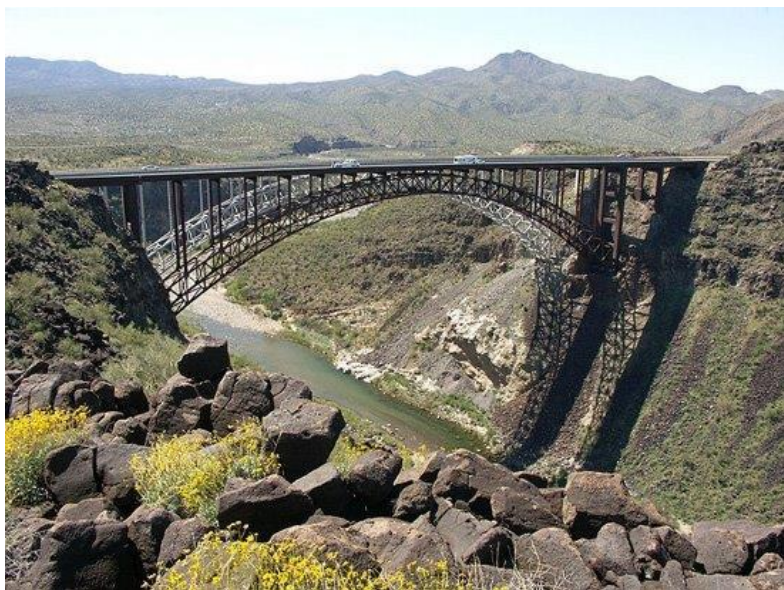


Arizona Department of Transportation 2015 DBE Availability and Disparity Study



March 27, 2014
External Stakeholder Group
Kickoff Meeting

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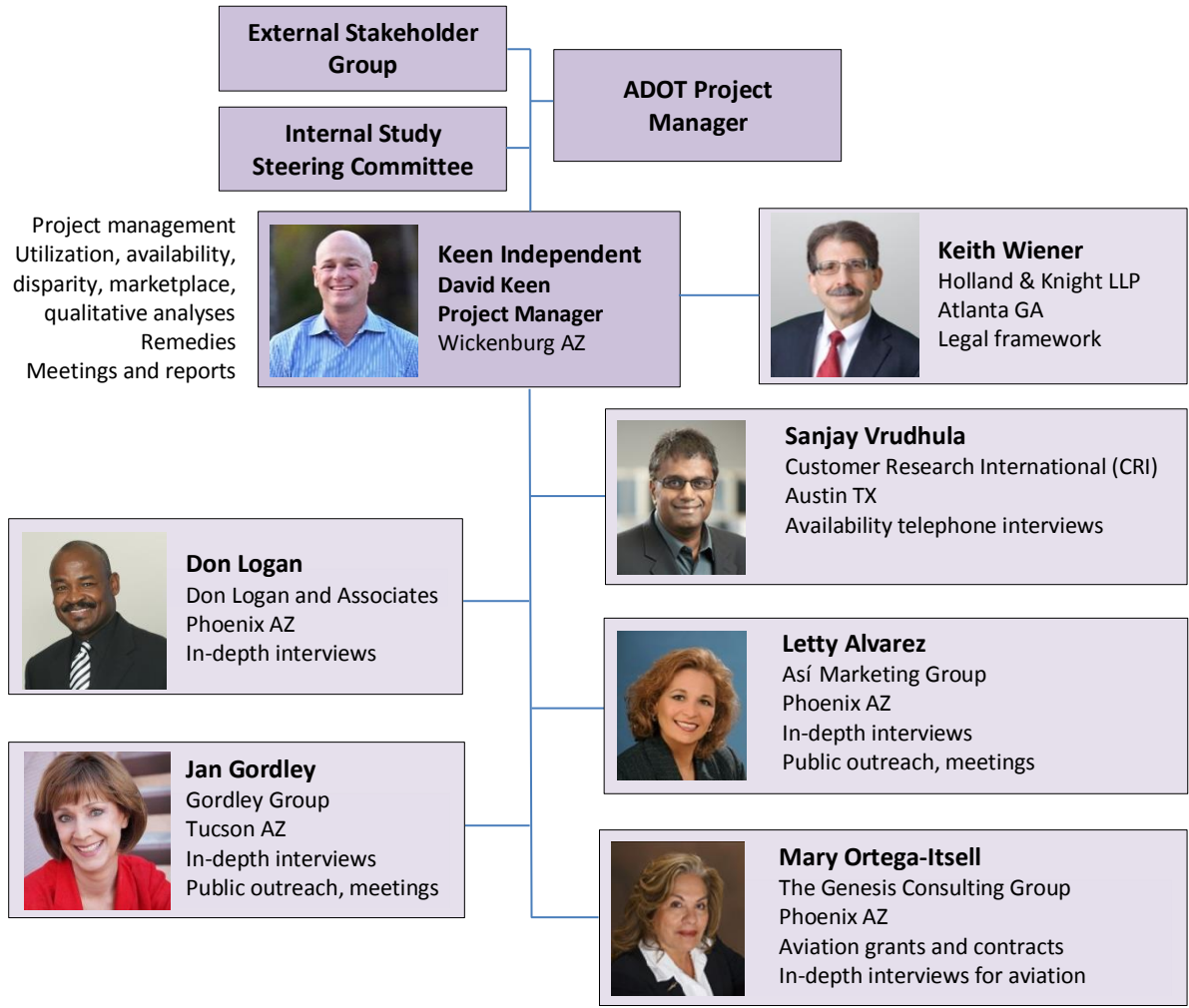
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Objectives for External Stakeholder Group Kickoff Meeting

1. Introduce key study team members
2. Explain role as an External Stakeholder Group member
3. Review USDOT requirements for state DOT implementation of the Federal DBE Program and explain why a study is necessary
4. Define certain terms and concepts
5. Examine example of “bottom-up,” dollar-weighted availability analysis
6. Discuss key areas of questions in the in-depth interview questions
7. Explain schedule for the disparity study
8. Explore how we will interact with businesses and groups outside ADOT
9. Discuss immediate action items

1. Keen Independent study team



2. Role as an External Stakeholder Group member

- Perspective on marketplace conditions is valuable
- Insights on program components also very useful
- Can help provide input from and communicate study approach/results to interested groups
- Therefore, we ask that External Stakeholder Group members:
 - Serve as a sounding board as we perform the study
 - Provide your own perspectives about marketplace conditions, business assistance needs, contracting practices, components of the Federal DBE Program, etc.
 - Point us to information and provide help when needed
 - Review preliminary analyses as they are developed
 - Give your feedback as we present draft results

3. Why conduct a disparity study?

- ADOT must implement the Federal DBE Program, per 49 CFR Part 26
- Program applies to FHWA-, FTA- and FAA-funded contracts
- Disparity study provides information to help ADOT:
 - Set overall goal for DBE participation on USDOT-funded contracts
 - Consider whether ADOT can achieve overall DBE goal solely through Small Business Program and other neutral means
 - If ADOT needs to continue DBE contract goals, assess the specific race/ethnic/gender groups eligible for that program component
- USDOT instructed agencies to conduct disparity studies after 2005 Ninth Circuit decision in *Western States Paving v. Washington State DOT*
 - Example of successful defense of Program: *AGC, San Diego v. Caltrans*
 - Dave Keen led Caltrans disparity study and provided expert testimony, Keith Wiener was legal advisor, analyzed qualitative information and provided litigation support
- Also, outside review of ADOT practices and other policies is useful
- ADOT /USDOT ultimately make decisions about goals and program elements

3. Why conduct a disparity study? (cont.)

- ADOT's current overall DBE goal for FHWA-funded contracts for Oct 2011-Sept 2014 is 7.76%, of which 2.68% is race-neutral and 5.08% is race-conscious
- ADOT discontinued DBE contract goals portion of program in 2006 and reinstituted in 2010
- ADOT's triennial goal for overall DBE participation in FHWA-funded contracts due October 2014

4. Terms and concepts

- Study period
 - ADOT and local agency transportation contracts from July 2007 through June 2013, including federal- and state-funded contracts
- DBE
 - Certified disadvantaged business enterprise
 - Can include white male-owned firms
 - Does not include all minority- and women-owned firms (including those too large to meet certification requirements)
 - “Potential DBE” is a minority- or woman-owned firm that appears to be eligible for DBE certification
- Minority-owned firm (MBE)
 - 51%+ owned by African American, Asian-Pacific American, Subcontinent Asian American, Hispanic American or Native American
 - Includes minority women-owned firms
 - Includes certified and non-certified firms
- White woman-owned firm (WBE)
 - 51%+ owned by white women, includes certified and non-certified firms

4. Terms and concepts (cont.)

- Majority-owned firm
 - Non-MBE or WBE firm
 - Excludes non-profits and government agencies
- Availability analysis
 - What firms are available to perform specific types, sizes and locations of ADOT and subrecipient prime contracts and subcontracts, and what is their race/ethnicity/gender ownership? (through phone interviews)
 - What percent of contract dollars might MBE/WBEs (by group) be expected to receive based on their relative availability and the types, sizes and locations of prime contracts and subcontracts?
- Utilization analysis
 - What is the utilization of MBEs and WBEs (by group) in an agency's contracts (including subcontracts), especially when DBE goals do not apply? (% of \$)
- Disparity analysis
 - Is utilization of minority- or women-owned firms (by group) less than what might be expected from the availability analysis

4. Terms and concepts (cont.)

- Marketplace analysis
 - Census data and other data on entry and advancement of minorities and women within the contracting industry, business formation, access to capital and business success
 - From the availability interviews, business owners' answers to questions concerning potential barriers in the marketplace
 - In-depth personal interviews with business owners, trade groups and others
 - Input from public meetings held throughout the state
 - Other input

4. Terms and concepts (cont.)

- Analysis of potential remedies
 - Any changes to contracting policies and practices
 - Small business programs, business development programs, technical assistance and other neutral remedies
 - As appropriate, race- and gender-conscious programs such as DBE contract goals
- Overall DBE goal
 - Level of DBE participation of USDOT-funded contracts might expect “absent the effects of discrimination”
- Step 1. Base figure analysis
 - Based on existing availability of DBEs relative to all available firms
- Possible Step 2 Adjustment
 - Examine volume of work DBEs have performed in recent years
 - Any factors that affect the opportunities for DBEs to form, grow and compete

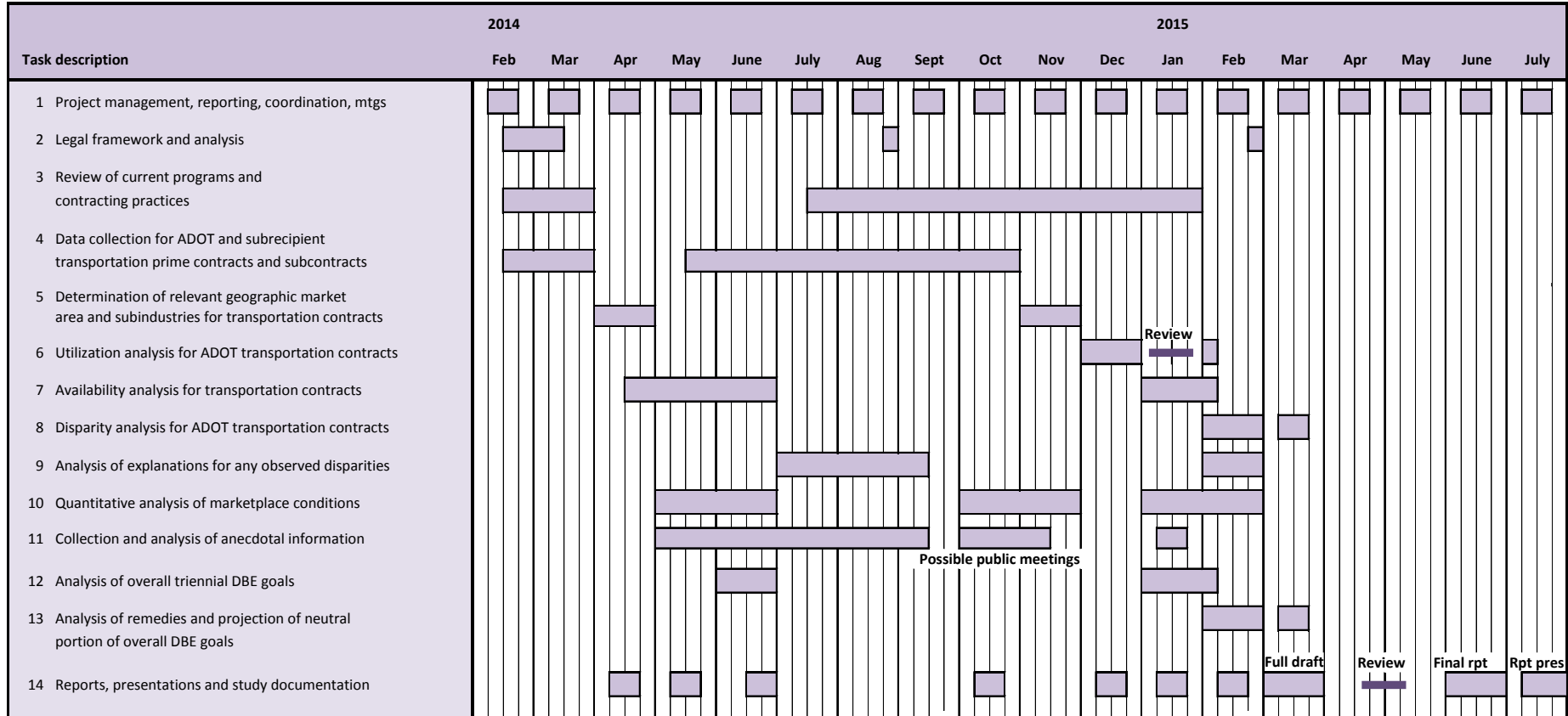
5. Example of component of availability analysis

- Electrical subcontract for about \$22,000 on a 2010 state DOT-awarded subcontract in a specific District
- Examined firms that:
 - a. Were in business in 2010
 - b. Indicated that they performed electrical work related to transportation projects
 - c. Reported working or bidding on subcontracts in Arizona in the past 7 years
 - d. Reported bidding on work of similar or greater size in the past 7 years
 - e. Reported ability to perform work in that region of Arizona
 - f. Reported qualifications and interest in working as a subcontractor on ADOT transportation contracts
- 55 businesses in the availability database that met those criteria ... of those, 19 were MBEs or WBE. MBE/WBE availability was 35% ($19/55 = 35\%$)
- Dollar weight result and added to availability calculations for other contracts and subcontracts

6. Examples of in-depth interview questions

- How the firm became established, effects of economic downturn, any barriers pursuing public/private sector work?
- Experience working as primes/subs, experiences with other primes/subs?
- Keys to success - employees, equipment, financing, bonding, insurance, relationships?
- Potential barriers - learning about work, marketing, licensing, contract size, prequalification, bidding, timely payment, experiences with ADOT, other?
- Any unfair treatment - bid shopping, bid manipulation, unfavorable work environments, double-standards, other?
- Any stereotypical attitudes, “good ol’ boy” networks, other allegations of discriminatory treatment, other barriers?
- Insights regarding neutral measures - technical assistance, mentor-protégé programs, financing assistance, pre-bid conferences, vendor fairs, etc.?
- Insights regarding ADOT or other public agency DBE programs?
- DBE certification - process, advantages/disadvantages, any fronts?

7. Schedule



8. How will interact with external groups

- Provide information to outside groups through website, email address, press release and other means

www.ADOTDBEstudy.com
info@ADOTDBEstudy.com

- Discussion of ADOT contract data, other data, policies and procedures
- Meetings with trade associations
- Telephone interviews with 2,000+ businesses in the Arizona transportation contracting industry
- 60 in-depth personal interviews with business owners and managers, industry group representatives and others
- Opportunities for any interested individuals or groups to submit comments
- 4 public meetings throughout the state
- Public presentations to ADOT
- Distribution of draft and final report to the public

9. Immediate action items

- Inform key groups about the study
- Prepare legal framework and analysis
- Receive and review ADOT data
- Analyze distribution of contract dollars by location of contracts and by types of work
- Prepare list of business establishments for availability telephone interviews
- Design and initiate availability interviews with businesses
- Initiate in-depth personal interviews with business owners and managers, and association representatives
- Prepare quantitative analyses of local marketplace conditions from Census data and other data
- Examine existing neutral programs (e.g., small business assistance) and other programs in Arizona